

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

RICHARD ANGINO and ALICE ANGINO,	:	CIVIL ACTION NO. 1:15-CV-418
	:	
	:	(Chief Judge Conner)
Plaintiffs	:	
	:	
v.	:	
	:	
WELLS FARGO BANK, N.A., and WELLS FARGO HOME MORTGAGE,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 26th day of February, 2016, upon consideration of the report (Doc. 30) of Chief Magistrate Judge Martin C. Carlson, recommending that the court grant the motion (Doc. 6) to dismiss filed by defendants Wells Fargo Bank, N.A., and Wells Fargo Home Mortgage, and dismiss Counts I, II, III, IV, VI, and VII of plaintiffs' complaint (Doc. 1) pursuant to Federal Rule of Civil Procedure 12(b)(6), see FED R. CIV. P. 12(b)(6), but deny the motion with respect to Count V and instead direct plaintiffs to file a more definite statement in support thereof pursuant to Federal Rule of Civil Procedure 12(e), see FED. R. CIV. P. 12(e), and the court noting that plaintiffs have filed a response (Doc. 31) to the report, requesting that the court "accept" Judge Carlson's report and "dismiss all of Plaintiffs' causes of action with prejudice to permit an appeal to the Third Circuit," (id.), and the court construing plaintiffs' response as a formal waiver of the right to object to the magistrate judge's report, see FED. R. CIV. P. 72(b)(2), and the court noting that the failure of a party to timely object to a magistrate judge's conclusions "may result in forfeiture of *de novo*

review at the district court level,” Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (citing Henderson v. Carlson, 812 F.2d 874, 878-79 (3d Cir. 1987)), but that, as a matter of good practice, a district court should “afford some level of review to dispositive legal issues raised by the report,” Henderson, 812 F.2d at 878; see also Taylor v. Comm’r of Soc. Sec., 83 F. Supp. 3d 625, 626 (M.D. Pa. 2015) (citing Univac Dental Co. v. Dentsply Int’l, Inc., 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010)), in order to “satisfy itself that there is no clear error on the face of the record,” FED. R. CIV. P. 72(b), advisory committee notes, and, following an independent review of the record, the court being in agreement with Judge Carlson’s recommendation that the bulk of plaintiffs’ complaint (Doc. 1) be dismissed for failure to state a claim for which relief may be granted, and otherwise noting that plaintiffs have preemptively rejected the opportunity to amend their complaint or file a more definite statement with respect to the claim not subject to dismissal, (see Doc. 31), and the court concluding that there is no error on the face of the record, it is hereby ORDERED that:

1. The report (Doc. 30) of Chief Magistrate Judge Carlson is ADOPTED.
2. Defendants’ motion (Doc. 6) to dismiss plaintiffs’ complaint (Doc. 1) is GRANTED.
3. Plaintiffs’ complaint (Doc. 1) is DISMISSED with prejudice in light of plaintiffs’ explicit rejection (Doc. 31) of an opportunity to amend.
4. The Clerk of Court is directed to CLOSE this case.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania